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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/056,942	Applicant(s) KOLLS, H. BROCK	
	Examiner Ronnie Mancho	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/10/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-29 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-29, 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 23-29, 35 and species c (C) and (a) in the reply filed on 11-10-05 is acknowledged.

2. Claims 1-22, 30-34, 36, 37 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11-10-05.

Applicant is further advised to amend accordingly to read in conformity to the elected species.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 23-29, 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Cannon et al (6408232).

Regarding claim 23, Cannon et al (figs. 1-4; col. 2-9) disclose a method of vehicle servicing, said method of vehicle servicing comprising the steps of:

a) monitoring vehicle data (col. 4, lines 31-41) associated with the vehicle, said vehicle data being data communicated wirelessly between an in-vehicle device (44, figs. 1&2) located in said vehicle and a communication interface device (wireless transceiver 34; col. 3, lines 43-65; col. 6, lines 1+);

b) analyzing (wireless piconet network 14; col. 2, lines 51-64; col. 5, lines 30-49) said monitored vehicle data;

c) obtain diagnostic information related to a determining of vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 59-67; col. 7, lines 29-31, lines 53-58);

d) determining said vehicle service recommendations and vehicle replacement part recommendations according to the analyzed vehicle data and the diagnostic information (col. 6, lines 59-67; col. 7, lines 29-31, lines 53-58);

e) presenting said determined vehicle service recommendations and vehicle replacement part recommendations to a user (col. 6, lines 33-67; col. 7, lines 29-31, lines 53-58);

f) allowing said user, from said vehicle, to review and to select said determined vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 33-67; col. 7, lines 29-31, lines 53-58); and

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receiving a selection from the user for the selected vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58).

Regarding claim 24 Cannon et al (inherently) disclose the method of vehicle servicing (figs. 1-4; col. 2-9) in accordance with claim 23 further comprising the steps of:

a) effectuating an e-commerce or an e-business transaction to place an order for said vehicle service recommendations and vehicle replacement part recommendations (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc); and

b) confirming said e-commerce, or said e-business order placement (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc).

Regarding claim 25 Cannon et al (inherently) disclose the method of vehicle servicing in accordance with claim 24, wherein the step of confirming said e-commerce, or said e-business order placement further comprises the step of:

a) charging one or more fees for transacting said e-commerce, or said e-business transaction.

Regarding claim 26 Cannon et al disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics to provide vehicle service recommendations and vehicle replacement part recommendations for a vehicle to a user for selection by the user, comprising the steps of:

a) receiving data for the vehicle at a communication interface device, said data being data communicated by an in-vehicle device located in the vehicle, or data communicated by a programmable storage device carried by a user (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

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b) communicating said plurality of data from said communication interface device to a remote location by way of a global network(col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

c) analyzing said data at said remote location (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

d) accessing one or more data processing resources to obtain diagnostic information related to determination of vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

e) determining said vehicle service recommendations and vehicle replacement part recommendations according to the analyzed data and the diagnostic information (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67);

f) allowing said user, from said vehicle, to review select at the determined vehicle service recommendations and vehicle replacement part recommendations (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67); and

g) receiving from the user a selection of the determined vehicle service recommendations and vehicle replacement part recommendations from said vehicle through said communication interface device (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67). .

Regarding claim 27 Cannon et al (inherently) disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics in accordance with claim 26 further comprising the steps of:

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a) effectuating an e-commerce or an e-business transaction by placing an order for the selection of said vehicle service recommendations and vehicle replacement part recommendations (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc); and

c) confirming said e-commerce, or said e-business order placement (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc).

Regarding claim 28 Cannon et al (inherently) disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics in accordance with claim 27, wherein the step of confirming said e-commerce or said e-business order further comprises the step of:

charging one or more fees for transacting said e-commerce, and/or said e-business transaction (col. 7, lines 53-67; col. 8, lines 21-54; col. 5, lines 57-67, etc).

Regarding claim 29 Cannon et al (inherently) disclose a method (figs. 1-4; col. 2-9) of performing remote vehicle diagnostics in accordance with claim 26 wherein, said programmable storage device is at least one of the following: a pocket PC, a personal data assistant, a wireless phone, a pager, an RED device, a smart card, a magnetic card, a key fob, a key chain, or a vehicle key (col. 6, lines 25-58; col. 8, lines 21-64).

Regarding claim 35, Cannon et al disclose a method (figs. 1-4; col. 2-9) of claim 23, wherein the step of monitoring vehicle data includes the step of:

monitoring vehicle data communicated wirelessly between the in-vehicle device and the communication interface (col. 6, lines 25-67; col. 7, lines 29-31, lines 53-58; col. 8, lines 21-67).

Response to Arguments

5. Applicant's arguments filed 5/17/05 have been fully considered but they are not persuasive for the following reasons:

The applicant is arguing that the prior art reference Cannon does not disclose an in-vehicle device... to communicate selections to the user. The applicant further argues that the prior art does not disclose an analysis device to provide vehicle service recommendations or vehicle replacement part recommendations to the in-vehicle device for selection by the user. The examiner respectfully disagrees. The applicant is relying only on one embodiment of the Cannon reference to support their argument; however, Cannon has several other embodiments that read on the claim. In Cannon, column 5, lines 44-49 indicates that the computation of various vehicle operational statistical parameters derived from raw data is calculated by the either the controller in the vehicle or the fixed wireless piconet transceiver. In column 6, lines 25-38, Cannon indicates that vehicle operational statistics can be tracked and maintained in a centralized vehicle computer database 42 which is part of the piconet transceiver including a controller 32 (fig. 3). Then in column 6, lines 59-67, the tracked or monitored parameters or information included but not limited to mechanical performance, repair notifications, maintenance, etc. In columns 7 and 8 as pointed out in the rejections, the prior art disclose an analysis device to provide vehicle service recommendations or vehicle replacement part recommendations to the in-vehicle device for selection by the user.

Similarly, Cannon et al disclose "a receiving unit to receive and to display (col. 5, lines 58-67) the vehicle service recommendation and/or the vehicle replacement part recommendation

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to a user in the vehicle via the in-vehicle device from the analysis device 14 (col. 8, lines 32-43).”

Similarly, Cannon et al disclose “an analysis device (wireless piconet network 14, col. 2, lines 51-64; col. 5, lines 30-49) to analyze the collected vehicle data from the in-vehicle device 44 and to determine vehicle service recommendations (col. 8, lines 21-43) and/or vehicle replacement part recommendations for the vehicle according to the analyzed vehicle performance data and diagnostic information, corresponding to the vehicle, which relates to the analyzed vehicle performance data (col. 6, lines 59-67; col. 7, lines 29-31, lines 53-58).”

The sections referring to e-commerce have been cited above.

It is therefore believed that the rejection is proper and stands.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho
Examiner
Art Unit 3663

1/20/06



MATTHEW LUU
PRIMARY EXAMINER